

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No: 04-34330-DDO

Trevor David Hansen
Cara Faye Hansen
aka Cara Faye Nagel,
Debtor(s).

**NOTICE OF HEARING AND MOTION FOR OBJECTING
TO CLAIMED EXEMPTIONS**

TO: THE ABOVE NAMED DEBTOR(S), THEIR ATTORNEY DEAN K. ADAMS, AND
OTHER PARTIES IN INTEREST SPECIFIED IN LOCAL RULE 9013-3

1. Charles W. Ries, the duly appointed and acting trustee in the above captioned matter, moves the Court for relief requested below and gives notice of hearing herewith.
2. The Court will hold a hearing on this motion on October 21, 2004 at 9:30 a.m., or as soon thereafter as counsel can be heard, before Honorable Dennis D. O'Brien, Court Room No: 228A, at the United States Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and delivered not later than 9:30 a.m. on October 18, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than October 12, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). If no response is timely filed, the Court may in its discretion enter an order without a hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion or this motion is authorized under 28 U.S.C. 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on July 27, 2004. Charles W. Ries was appointed as Chapter 7 trustee on July 28, 2004. The first meeting of creditors was scheduled for August 20, 2004. This case is now pending in this Court.
5. This motion arises under 11 U.S.C. 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.
6. Debtor(s) have scheduled certain assets as exempt on Schedule C, including as follows:

Homestead ("Homestead") located at 906 14 th Ave SE, Austin, MN legally described as: Lot 4, in Block 11 of Kaufman's Second Addition to the City of Austin, Mower County, Minnesota.	11 U.S.C. § 522 (d)(1)	\$48,100
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Trevor's Retirement	11 U.S.C. § 522 (d)(10)(E) 11 U.S.C. § 522 (d)(5)	\$41,359.56
Cara's Retirement	11 U.S.C. § 522 (d)(10)(E) 11 U.S.C. § 522 (d)(5)	\$16,682.79

7. Movant objects to the above noted exemptions claimed in that schedule as follows, for the following reasons:

(a) The Debtors have claimed Homestead as exempt pursuant to 11 U.S.C. § 522 (d)(1). Objection is made because Trustee believes the homestead is understated and that equity will exceed available exemption.

(b) The Debtors have claimed Trevor's Retirement and Cara's Retirement as exempt pursuant to 11 U.S.C. § 522 (d)(10)(E) and 11 U.S.C. § 522 (d)(5). Objection is made because Trustee has not received sufficient information to determine if the plans are ERISA qualified.

WHEREFORE, the Trustee requests that the Court deny the following exemptions claimed by the Debtor(s):

1. Denying the claimed exemption of Homestead located at 906 14th Ave SE, Austin, MN legally described as: Lot 4, in Block 11 of Kaufman's Second Addition to the City of Austin, Mower County, Minnesota.
2. Denying the claimed exemption of Trevor's Retirement and Cara's Retirement.

Dated this 16th day of September, 2004.

/e/Charles W. Ries
Charles W. Ries for
MASCHKA RIEDY & RIES
Attorneys for Trustee
201 North Broad Street, Suite 200
P. O. Box 7
Mankato, MN 56002-0007
Telephone (507) 625-6600
Attorney License No: 12767X

VERIFICATION

STATE OF MINNESOTA

ss.

COUNTY OF BLUE EARTH

Charles W. Ries declares under penalty of perjury that he is the trustee in the above entitled action; that he has read the foregoing Notice of Hearing and Motion Objecting to Claimed Exemptions and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes them to be true.

/e/Charles W. Ries
Charles W. Ries

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DECLARATION RE: SERVICE BY MAIL

The undersigned, being an employee of Maschka, Riedy & Ries, 200 Union Square Business Center, 201 North Broad Street, Mankato, Minnesota, declares under penalty of perjury that on the 16th day of September, 2004, she served the Notice of Hearing and Motion Objecting to Claimed Exemptions by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Trevor David Hansen
906 14th Avenue SE
Austin, MN 55912

Cara Faye Hansen
906 14th Avenue SE
Austin, MN 55912

Dean K. Adams
Attorney at Law
300 1st St. NW
Austin, MN 55912

Principle Residential Mortgage, Inc.
Brice, Vander Linden & Wernick, P.C.
PO Box 829009
Dallas, TX 75382-9009

United States Trustee
1015 U S Courthouse
300 S 4th St
Minneapolis MN 55415

/e/Janet Anderson

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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ORDER

At St. Paul, Minnesota this _____ day of _____, 2004.

The above captioned matter came before the Court on the on objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon the files, records, and proceedings herein,

IT IS HEREBY ORDERED,

That the Trustee's objection is sustained and

1. The claimed exemption of Homestead located at 906 14th Ave SE, Austin, MN legally described as: Lot 4, in Block 11 of Kaufman's Second Addition to the City of Austin, Mower County, Minnesota is denied.
2. The claimed exemption of Trevor's Retirement and Cara's Retirement is denied.

BY THE COURT:

Honorable Dennis D. O'Brien
United States Bankruptcy Judge